IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.1155 OF 2001

IN

CONTEMPT PETITION NO.1 OF 1998

IN

NOTICE OF MOTION NO.395 OF 1997

IN

SUIT NO.456 OF 1997

V.K. Bansal ...Appellant

v/s

Rank Enterprises Ltd. and ors. ...Respondents

Ms S.M. Podar i/b Mr M.L. Bansal for Appellant.

Mr P.C. Mankad i/b Mr P.D. Kadam for Respondent No.1.

Mr Rajesh Gehani for Respondent No.3.

CORAM : D.K. DESHMUKH AND J.H. BHATIA JJ.

DATE : 11TH OCTOBER 2007.

P.C. :-

1. This appeal is directed against the order dated 8th October 2001 passed by the learned Single Judge of this Court in contempt petition No.1 of 1998. By that order, amongst others, original respondent No.6 - V.K. Bansal has been held guilty of committing civil contempt of this Court and he has been sentenced to undergo simple imprisonment for a period of three months and also pay fine of Rs.2,000/-. The facts in brief are that by order dated 31st July 1997, the defendant No.1 - Company by name Aravali Tubes Ltd. was directed to deposit in Court the price of twelve containers. The act of disobedience was that though by that order dated 31st July 1997 the defendant No.1 - Company was directed to deposit the price of twelve containers or furnish bank guarantee in the amount of price of twelve containers, it was not done. In the contempt petition as originally filed, admittedly the respondent No.6, who is the present appellant, was not joined as a party. He was subsequently joined as a party. His defence was that he has been proceeded against describing him as Chairman and Managing Director of the defendant No.1 - Company. In fact, he was neither Chairman nor Managing Director of the defendant No.1 - Company. Admitted

position is that though the petitioners joined respondent No.6 as a party, there is no averment made in the petition that the respondent No.6 is a Chairman and Managing Director of the defendant No.1 - Company. Admittedly, there is also no document in the form of an entry in the record of the Registrar of Companies produced showing that during the relevant period, the present appellant was the Chairman and Managing Director of the defendant No.1 - Company. There is also no document produced on record from the record of the defendant No.1 - Company to show that the present appellant was a Chairman and Managing director of the Company at the relevant time. Perusal of the order of the learned Single Judge shows that the defence of the appellant has been rejected relying on a complaint filed before the Criminal Court where respondent No.6 has been described as Chairman and Managing Director of the defendant No.1 - Company. In our opinion, considering the nature of the proceedings, unless best evidence viz. an entry in record of the Registrar of Companies or in the record of the Company itself showing the respondent No.6 as Chairman and Managing Director of the defendant No.1 - Company at the relevant time is produced, a quasi-criminal liability could not have been imposed on the respondent No.6 who is present appellant. In this view of the matter, in our opinion, appeal deserves to be allowed. It is accordingly allowed, the order of the

learned Single Judge to the extent that it convicts present appellant for committing civil contempt of this Court and imposes punishment and fine is set aside.

Appeal is disposed off.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.

(D.K. DESHMUKH J.)

(J.H. BHATIA J.)